

AMENDED IN SENATE AUGUST 4, 2016

AMENDED IN ASSEMBLY MARCH 17, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1864

**Introduced by Assembly Member Cooley
(Coauthor: Assembly Member Cooper)**

February 10, 2016

An act to amend Section 27491.41 of, and to add Section 27491.42 to, the Government Code, relating to inquests.

LEGISLATIVE COUNSEL'S DIGEST

AB 1864, as amended, Cooley. Inquests: sudden unexplained death in childhood.

Existing law states that the Legislature finds and declares that sudden infant death syndrome, as defined, is the leading cause of death for children under age one. Existing law requires the coroner to, among other things, perform an autopsy, within 24 hours or as soon thereafter as feasible, in any case where an infant has died suddenly and unexpectedly.

This bill would define “sudden unexplained death in childhood” as the sudden death of a child one year of age or older but under 18 years of age that is unexplained by the history of the child and for which a thorough postmortem examination fails to demonstrate an adequate cause of death. The bill would require the coroner to notify the parent or responsible adult of a child within that definition about the importance of taking tissue samples. The bill would also exempt the coroner from liability for damages in a civil action for any act or omission done in

compliance with these provisions. The bill would make other, nonsubstantive, changes.

By expanding the duties of a local agency, this bill would create a state-mandated local program.

This bill would incorporate additional changes to Section 27491.41 of the Government Code, proposed by SB 1189, to be operative only if SB 1189 and this bill are both chaptered and become effective on or before January 1, 2017, and this bill is chaptered last.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 27491.41 of the Government Code is
- 2 amended to read:
- 3 27491.41. (a) For purposes of this section, “sudden infant
- 4 death syndrome” means the sudden death of any infant that is
- 5 unexpected by the history of the infant and where a thorough
- 6 postmortem examination fails to demonstrate an adequate cause
- 7 of death.
- 8 (b) The Legislature finds and declares that sudden infant death
- 9 syndrome, also referred to as SIDS, is the leading cause of death
- 10 for children under age one, striking one out of every 500 children.
- 11 The Legislature finds and declares that sudden infant death
- 12 syndrome is a serious problem within the State of California, and
- 13 that *the* public interest is served by research and study of sudden
- 14 infant death syndrome and its potential causes and indications.
- 15 (c) (1) To facilitate these purposes, the coroner shall, within
- 16 24 hours or as soon thereafter as feasible, perform an autopsy in
- 17 any case where an infant has died suddenly and unexpectedly.
- 18 (2) However, if the attending physician desires to certify that
- 19 the cause of death is sudden infant death syndrome, an autopsy
- 20 may be performed at the discretion of the coroner. If the coroner

1 performs an autopsy pursuant to this section, he or she shall also
2 certify the cause of death.

3 (d) The autopsy shall be conducted pursuant to a standardized
4 protocol developed by the State Department of Public Health. The
5 protocol is exempt from the procedural requirements pertaining
6 to the adoption of administrative rules and regulations pursuant to
7 Article 5 (commencing with Section 11346) of Chapter 3.5 of Part
8 1 of Division 3 of Title 2 of the Government Code. ~~The protocol~~
9 ~~shall be developed and approved by July 1, 1990.~~

10 (e) The protocol shall be followed by all coroners throughout
11 the state when conducting the autopsies required by this section.
12 The coroner shall state on the certificate of death that sudden infant
13 death syndrome was the cause of death when the coroner's findings
14 are consistent with the definition of sudden infant death syndrome
15 specified in the standardized autopsy protocol. The protocol may
16 include requirements and standards for scene investigations,
17 requirements for specific data, criteria for ascertaining cause of
18 death based on the autopsy, and criteria for any specific tissue
19 sampling, and any other requirements. The protocol may also
20 require that specific tissue samples shall be provided to a central
21 tissue repository designated by the State Department of Public
22 Health.

23 (f) The State Department of Public Health shall establish
24 procedures and protocols for access by researchers to any tissues,
25 or other materials or data authorized by this section. Research may
26 be conducted by any individual with a valid scientific interest and
27 prior approval from the State Committee for the Protection of
28 Human Subjects. The tissue samples, the materials, and all data
29 shall be subject to the confidentiality requirements of Section
30 103850 of the Health and Safety Code.

31 (g) The coroner may take tissue samples for research purposes
32 from infants who have died suddenly and unexpectedly without
33 consent of the responsible adult if the tissue removal is not likely
34 to result in any visible disfigurement.

35 (h) A coroner shall not be liable for damages in a civil action
36 for any act or omission done in compliance with this section.

37 (i) Consent of any person is not required before undertaking the
38 autopsy required by this section.

39 *SEC. 1.5. Section 27491.41 of the Government Code is*
40 *amended to read:*

1 27491.41. (a) For purposes of this section, “sudden infant
2 death syndrome” means the sudden death of any infant that is
3 unexpected by the history of the infant and where a thorough
4 postmortem examination fails to demonstrate an adequate cause
5 of death.

6 (b) The Legislature finds and declares that sudden infant death
7 ~~syndrome (SIDS)~~ *syndrome, also referred to as SIDS*, is the leading
8 cause of death for children under age one, striking one out of every
9 500 children. The Legislature finds and declares that sudden infant
10 death syndrome is a serious problem within the State of California,
11 and that *the* public interest is served by research and study of
12 sudden infant death ~~syndrome~~, *syndrome* and its potential causes
13 and indications.

14 (c) (1) To facilitate these purposes, the coroner shall, within
15 ~~24 hours~~, *hours* or as soon thereafter as feasible, ~~perform~~ *cause*
16 an autopsy *to be performed* in any case where an infant has died
17 suddenly and unexpectedly.

18 (2) However, if the attending *licensed physician and surgeon*
19 desires to certify that the cause of death is sudden infant death
20 syndrome, an autopsy may be performed at the discretion of the
21 coroner. If the coroner ~~performs~~ *causes* an autopsy *to be performed*
22 pursuant to this section, he or she shall also certify the cause of
23 death.

24 (d) The autopsy shall be conducted pursuant to a standardized
25 protocol developed by the State Department of ~~Health Services~~.
26 *Public Health*. The protocol is exempt from the procedural
27 requirements pertaining to the adoption of administrative rules and
28 regulations pursuant to Article 5 (commencing with Section 11346)
29 of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government
30 Code. ~~The protocol shall be developed and approved by July 1,~~
31 ~~1990.~~

32 (e) The protocol shall be followed by all coroners throughout
33 the state when conducting ~~the autopsies~~ *an evaluation as part of*
34 *an autopsy* required by this section. The coroner shall state on the
35 certificate of death that sudden infant death syndrome was the
36 cause of death when the coroner’s findings are consistent with the
37 definition of sudden infant death syndrome specified in the
38 standardized autopsy protocol. The protocol may include
39 requirements and standards for scene investigations, requirements
40 for specific data, criteria for ascertaining cause of death based on

1 the autopsy, and criteria for any specific tissue sampling, and any
2 other requirements. The protocol may also require that specific
3 tissue samples ~~must~~ *shall* be provided to a central tissue repository
4 designated by the State Department of ~~Health Services~~. *Public*
5 *Health*.

6 (f) The State Department of *Public Health* ~~Services~~ shall
7 establish procedures and protocols for access by researchers to
8 any tissues, or other materials or data authorized by this section.
9 Research may be conducted by any individual with a valid
10 scientific interest and prior approval from the State Committee for
11 the Protection of Human Subjects. The tissue samples, the
12 materials, and all data shall be subject to the confidentiality
13 requirements of Section 103850 of the Health and Safety Code.

14 (g) The coroner *or licensed physician and surgeon* may take
15 tissue samples for research purposes from infants who have died
16 suddenly and unexpectedly without consent of the responsible
17 adult if the tissue removal is not likely to result in any visible
18 disfigurement.

19 (h) A coroner *or licensed physician and surgeon* shall not be
20 liable for damages in a civil action for any act or omission done
21 in compliance with this section.

22 (i) ~~No consent~~ *Consent* of any person is *not* required ~~prior to~~
23 *before* undertaking the autopsy required by this section.

24 SEC. 2. Section 27491.42 is added to the Government Code,
25 to read:

26 27491.42. (a) For purposes of this article, “sudden unexplained
27 death in childhood” means the sudden death of a child one year
28 of age or older but under 18 years of age that is unexplained by
29 the history of the child and where a thorough postmortem
30 examination fails to demonstrate an adequate cause of death.

31 (b) The coroner shall notify the parent or responsible adult of
32 a child described in subdivision (a) about the importance of taking
33 tissue samples.

34 (c) A coroner shall not be liable for damages in a civil action
35 for any act or omission in compliance with this section.

36 SEC. 3. *Section 1.5 of this bill incorporates amendments to*
37 *Section 27491.41 of the Government Code proposed by both this*
38 *bill and Senate Bill 1189. It shall only become operative if (1) both*
39 *bills are enacted and become effective on or before January 1,*
40 *2017, (2) each bill amends Section 27491.41 of the Government*

1 *Code, and (3) this bill is enacted after Senate Bill 1189, in which*
2 *case Section 27491.41 of this bill shall not become operative.*

3 ~~SEC. 3.~~

4 *SEC. 4.* If the Commission on State Mandates determines that
5 this act contains costs mandated by the state, reimbursement to
6 local agencies and school districts for those costs shall be made
7 pursuant to Part 7 (commencing with Section 17500) of Division
8 4 of Title 2 of the Government Code.